

Application Serial No: 10/530,725
Responsive to the Office Action mailed on August 31, 2009

REMARKS

This Amendment is in response to the Office Action mailed on August 31, 2009. Claims 1, 6-8 and 10-12 are amended. The amendments to claims 1 and 6 are supported, for example, in the specification on page 12, line 13-page 14, line 22. Claims 7, 8 and 10-12 are amended to track the amendments to claim 6. Claims 5 and 13 are cancelled without prejudice or disclaimer. No new matter is added. Claims 1-4 and 6-12 are pending.

§112, Second Paragraph:

Claims 1-5 are rejected as being indefinite. Particularly, the rejection asserts that it is unclear whether the "wavelength determination step" actually determines a wavelength based on the features recited relating to the "wavelength determination step". The rejection also asserts that it is unclear how the calculation step specifically uses the first detection step and the second detection step in its calculation. Claim 1 is amended to clarify the issues noted in the rejection. Withdrawal of this rejection is requested.

§102 Rejections:

Claims 6-13 are rejected as being anticipated by Matzinger (US Patent No. 5,780,304). This rejection is traversed.

Claim 6 is directed to an analyzing device that requires, among other features, a storage that stores a relationship between variations of reflectivity and variations of wavelength with respect to a reference board whose reflectivity varies continuously as the wavelength of light irradiated onto the reference board varies, the variations of the wavelength of irradiated light being caused by environmental temperature changes that also cause fluctuations of reflectivity.

Matzinger does not disclose or suggest these features. The present Office Action asserts that the features regarding the "storage" of claim 6 are merely functional features and are not given patentable weight.

However, Applicants note that the "storage" of claim 6 actually stores "a relationship between variations of reflectivity and variations of wavelength with respect to a reference board whose reflectivity varies continuously as the wavelength of light

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irradiated onto the reference board varies, the variations of the wavelength of irradiated light being caused by environmental temperature changes that also cause fluctuations of reflectivity". Thus, the features regarding the "storage" of claim 6 further define the structural configuration of the "storage" of claim 6, and are not merely functional features.

Also, nowhere does Matzinger disclose or suggest a storage that stores a relationship between variations of reflectivity and variations of wavelength with respect to a reference board whose reflectivity varies continuously as the wavelength of light irradiated onto the reference board varies.

In fact, Matzinger does not disclose, or even contemplate, variations of wavelength. In Matzinger, adjustment is made so that each of different measuring apparatuses provides a proper quantity of light energy (i.e., intensity of light) of each LED which is designed to emit light at a fixed wavelength of 660 nm or 940 nm (see column 11, lines 16-18 and column 12, lines 25-56). Matzinger also includes a gray target (45) and a standard zone (60). However, the gray target (45) is not dependent on wavelength. The standard zone (60) only provides a higher reflectance than a reaction zone, and wavelength dependence of the standard zone (60) is not used for measurement correction (see column 9, line 66-page 10, line 21). Thus, any adjustment or correction made to the method is based on the assumption that each LED emits light at a fixed wavelength.

Accordingly, Matzinger does not contemplate a storage that stores a relationship between variations of reflectivity and variations of wavelength with respect to a reference board whose reflectivity varies continuously as the wavelength of light irradiated onto the reference board varies, as recited in claim 6.

For at least these reasons claim 6 is not suggested by Matzinger. Claims 7-13 depend from claim 6 and should be allowed for at least the same reasons.

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Conclusion:

Applicant respectfully asserts that the pending claims are in condition for allowance. If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicant's primary attorney-of record, Douglas P. Mueller (Reg. No. 30,300), at (612) 455-3804.


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PATENT TRADEMARK OFFICE

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Respectfully submitted,

HAMRE, SCHUMANN, MUELLER &
LARSON, P.C.
P.O. Box 2902
Minneapolis, MN 55402-0902
(612) 455-3800

By: 
Douglas P. Mueller
Reg. No. 30,300
DPM/ahk